

Decision No. 58007**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of )  
 PACIFIC SOUTHCOAST FREIGHT BUREAU, )  
 J. P. Haynes, Chairman, for authority ) Application No. 40317  
 to cancel certain less-carload commodity) rates on dairy products, fertilizer, )  
 and other commodities as specified. )

Charles W. Burkett, John Smith and Frederick E. Fuhrman, for applicant.

J. J. Demel, for California Farm Bureau Federation;  
 Arlo D. Poe, J. C. Kaspar and Lawrence R. Exley,  
 for California Trucking Associations, interested parties.

O P I N I O N

Pacific Southcoast Freight Bureau Tariff No. 255-F contains class and commodity rates applicable between points in this state via the participating rail lines, also via said rail lines and certain connecting highway carriers. In Section 3 of the tariff are set forth numerous less-than-carload commodity rates. By the application herein, as amended, the Bureau seeks, on behalf of the carriers parties to the tariff, to cancel all of those rates named in Section 3 which apply on commodities for which the Commission has not prescribed minimum rates.<sup>1/</sup>

Public hearing of the application was held before Examiner Carter R. Bishop on November 21 and 24, 1958, at San Francisco and Los Angeles, respectively.

Evidence on behalf of applicant was adduced through an assistant freight traffic manager of Southern Pacific Company. His

<sup>1/</sup> Authority is also sought to cancel certain less-than-carload rates on hay applicable from Owens Valley points to Los Angeles, also between points in the Los Angeles area and points in Imperial Valley. According to the record there has been no movement under these rates for several years past. Hay is a commodity for which minimum rates have been established.

testimony brought forth the following facts: Effective August 7, 1939, the state-wide rail class rates were adjusted pursuant to the Commission's minimum rate order in Decision No. 31606. For many years prior to that date, the rail lines had maintained less-than-carload commodity rates on unmanufactured agricultural products, returned empty carriers, certain class of dairy products, and fertilizers. These rates had been established for the purpose of meeting then existing competitive conditions. These latter included competition with certain classes of highway carriers, which were then unregulated, and with coastwise and inland water carriers. The coastwise water competition, the witness stated, has, with respect to the commodities here in issue, long since become non-existent.

When the Commission established state-wide minimum less-than-carload rates for the rail lines by Decision No. 31606, the commodity rates here in issue, being exempt from the minimum rate order, were continued in effect at the lower levels to meet the above-mentioned competitive conditions which still existed.

It is the position of the member rail lines that transportation conditions which warranted the original publication of the commodity rates here in issue no longer prevail and that reasonable rates for the movements in question would be the class rates published elsewhere in Tariff No. 255-F, in conjunction with the less-than-carload class ratings provided in Western Classification No. 76, in Pacific Southcoast Freight Bureau Exception Sheet No. 1-S, or in Tariff No. 255-F itself. Such rates and ratings would apply after cancellation of the commodity rates involved herein.<sup>2/</sup>

The witness further testified that said commodity rates have not borne their fair share of increased operating costs which

<sup>2/</sup> The witness introduced an exhibit setting forth numerous examples of the rates sought to be cancelled. These were compared with the class rates which would apply after cancellation. The amounts of the increases involved varied widely as between different commodities and movements.

the rail lines have sustained during recent years. He pointed out that, in the period from September 5, 1950 to July 1958, increases in rail less-than-carload class rates had been authorized by the Commission on five separate occasions, while during the same period only once had authority been granted to increase the commodity rates here in issue, namely, by Decision No. 53052 of May 9, 1956.<sup>3/</sup>

A check of Southern Pacific shipments handled during the week of October 13, 1958, the witness stated, failed to disclose any movement during that period under any of the rates proposed to be cancelled. He considered the week selected for the study as representative, since none of the commodities involved appear to be seasonal in movement.

Wide notification of the public hearings was given in advance thereof to business concerns and other organizations believed to be interested in the proposed rate cancellations. No one appeared in opposition to the granting of the application.

It appears from the record that the rates herein sought to be cancelled are depressed and that they are no longer required by the needs of commerce. After careful consideration of the evidence of record we find as a fact that the sought rate cancellations have been justified. The application, as amended, will be granted. Applicant has requested that it be authorized to make the rate cancellations effective on five days' notice to the Commission and to the public. No justification is made to appear for publication on less than statutory notice. The request will be denied.

#### O R D E R

Based upon the evidence of record and upon the findings and conclusions set forth in the preceding opinion,

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<sup>3/</sup> Decision No. 57545 of November 3, 1958, issued subsequent to the hearings in this matter, also authorized increases in the less-than-carload rates in question.

IT IS ORDERED that:

1. Pacific Southcoast Freight Bureau be, and it is, hereby authorized to cancel, on not less than thirty days' notice to the Commission and to the public, commodity rates from its Tariff No. 255-F to the extent proposed in the application, as amended, filed in this proceeding.

2. The authority herein granted shall expire unless exercised within ninety days after the effective date of this order.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 9th day of February, 1959.

E. Lynn Fox  
President  
[Signature]  
[Signature]

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Commissioners

Commissioner Theodora B. Jones, being necessarily absent, did not participate in the disposition of this proceeding.